

AMENDMENT TO COMMITTEE PRINT
OFFERED BY MS. DEGETTE OF COLORADO

In title III, amend section 327 to read as follows:

1 **SEC. 327. HYDRAULIC FRACTURING.**

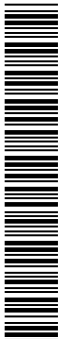
2 Section 1421 of the Safe Drinking Water Act (42
3 U.S.C. Sec. 300h) is amended by adding at the end the
4 following:

5 “(e). HYDRAULIC FRACTURING FOR OIL AND GAS
6 PRODUCTION.—

7 “(1) INDEPENDENT SCIENTIFIC REVIEW.—

8 “(A) IN GENERAL.—Not later than 6
9 months after the enactment of this subsection,
10 the Administrator shall enter into an appro-
11 priate agreement with the National Academy of
12 Sciences to have the Academy review the con-
13 clusions of the Final Report of the Environ-
14 mental Protection Agency dated June 2004 en-
15 titled ‘Evaluation of Impacts to Underground
16 Sources of Drinking Water by Hydraulic Frac-
17 turing of Coalbed Methane Reservoirs’.

18 “(B) REPORT.—Not later than 11 months
19 after entering into an appropriate agreement
20 with the Administrator, the National Academy



1 of Sciences shall report to the Administrator,
2 the Committee on Energy and Commerce of the
3 House of Representatives, and the Committee
4 on Environment and Public Works of the Sen-
5 ate, on the following:

6 “(i) Findings related to the report re-
7 ferred to in subparagraph (A)

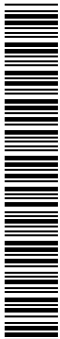
8 “(ii) The scientific and technical basis
9 for such findings.

10 “(iii) Recommendations, if any, for
11 modifying the findings of the report.

12 “(2) REGULATORY DETERMINATION.—

13 “(A) IN GENERAL.—Not later than 18
14 months after receiving the National Academy of
15 Sciences report under paragraph (1), the Ad-
16 ministrator shall determine, after informal pub-
17 lic hearings and public notice and opportunity
18 for comment, and after consideration of such
19 National Academy of Sciences report either—

20 “(i) that regulation of hydraulic frac-
21 turing in coalbeds under this part is nec-
22 essary to ensure that underground sources
23 of drinking water will not be endangered
24 on a nationwide basis, or within a specific
25 region, State or portions of a State; or



1 “(ii) that regulation described under
2 clause (i) is unnecessary.

3 “(B) PUBLICATION OF DETERMINATION.—
4 The Administrator shall publish the determina-
5 tion in the Federal Register, accompanied by an
6 explanation.

7 “(3) PROMULGATION OF REGULATIONS.—

8 “(A) REGULATION NECESSARY.—If the
9 Administrator determines under paragraph (2)
10 that regulation of hydraulic fracturing in coal-
11 beds under this part is necessary to ensure that
12 hydraulic fracturing does not endanger under-
13 ground drinking water sources on a nationwide
14 basis, or within a specific region, State or por-
15 tions of a State, the Administrator shall, within
16 18 months after the issuance of that determina-
17 tion, and after public notice and opportunity for
18 comment, promulgate regulations under this
19 section to ensure that hydraulic fracturing in
20 coalbeds will not endanger such underground
21 sources of drinking water. For purposes of the
22 Administrator’s approval or disapproval under
23 section 1422 of any State underground injec-
24 tion control program for regulating hydraulic
25 fracturing in coalbeds, a State at any time may



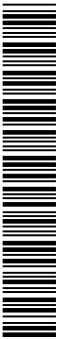
1 make the alternative demonstration provided for
2 in section 1425 of this part.

3 “(B) REGULATION UNNECESSARY.—The
4 Administrator shall not regulate or require
5 States to regulate hydraulic fracturing in coal-
6 beds under this part unless—

7 “(i) the Administrator determines
8 under paragraph (2) that such regulation
9 is necessary; or

10 “(ii) after making a determination
11 that regulation is unnecessary under para-
12 graph (2), the Administrator determines
13 subsequently, after following the proce-
14 dures in subsection (a)(2), that regulation
15 under this part of hydraulic fracturing in
16 coalbeds is necessary to ensure that under-
17 ground sources of drinking water will not
18 be endangered on a nationwide basis, or
19 within a specific region, State or portions
20 of a State.

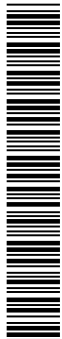
21 The prohibition in this subparagraph on requir-
22 ing a State to regulate hydraulic fracturing in
23 coalbeds under this part does not apply to any
24 State that has a program for the regulation of
25 hydraulic fracturing in coalbeds that was ap-



1 proved by the Administrator under this part
2 prior to the effective date of this subsection.
3 The prohibitions on regulation in this subpara-
4 graph shall not apply beyond the date 5 years
5 after the date of the enactment of this sub-
6 section if the Administrator has not made the
7 determination required by paragraph (2).

8 “(C) EXISTING REGULATIONS.—Subject to
9 a subsequent determination of necessity by the
10 Administrator under subparagraph (B), a de-
11 termination by the Administrator under para-
12 graph (2) that regulation is unnecessary will re-
13 lieve all States (including those with existing
14 approved programs for the regulation of hy-
15 draulic fracturing) from any existing obligation
16 to regulate hydraulic fracturing in coalbeds as
17 an underground injection under this part. .

18 “(D) DIRECT IMPLEMENTATION STATES.—
19 Notwithstanding subparagraph (B), prior to
20 making the determination described in para-
21 graph (2) the Administrator, in the Administra-
22 tor’s discretion, may regulate under this part
23 hydraulic fracturing in coalbeds within States
24 for which the Administrator has primary en-
25 forcement responsibility for underground



1 sources of drinking water, if the Administrator
2 follows the procedures in subsection (a)(2).

3 “(4) HYDRAULIC FRACTURING IN OIL AND GAS
4 RESERVOIRS EXCLUSIVE OF COALBEDS.—The Ad-
5 ministrator shall neither regulate under this part,
6 nor require States to regulate under this part, hy-
7 draulic fracturing in oil and gas reservoirs exclusive
8 of coalbeds unless the Administrator determines,
9 after following the procedures in subsection (a)(2),
10 either of the following:

11 “(A) that regulation of hydraulic frac-
12 turing in such reservoirs under this part is nec-
13 essary to ensure that underground sources of
14 drinking water will not be endangered (as de-
15 fined under subsection (d)(2)) on a nationwide
16 basis, or within a specific region, State or por-
17 tions of a State.

18 “(B) That specific methods or practices re-
19 garding hydraulic fracturing in such reservoirs
20 or its use in particular hydrogeologic cir-
21 cumstances may adversely affect the health of
22 persons in the judgment of the Administrator,
23 unless additional precautionary actions are
24 taken on a nationwide basis, or within a specific
25 region, State or portions of a State.



1 In the event that the Administrator makes either of
2 these findings, a State at any time may make the al-
3 ternative demonstration provided for in section 1425
4 of this title for purposes of the Administrator's ap-
5 proval or disapproval under section 1422 of any
6 State underground injection control program for
7 regulating hydraulic fracturing in oil and gas res-
8 ervoirs exclusive of coalbeds.

9 “(5) DEFINITION OF HYDRAULIC FRAC-
10 TURING.—For purposes of this subsection, the term
11 ‘hydraulic fracturing’ means the process of creating
12 a fracture in a reservoir rock, and injecting fluids
13 and propping agents, for the purposes of reservoir
14 stimulation related to oil and gas production activi-
15 ties.

16 “(6) SAVINGS CLAUSE.—Nothing in this sub-
17 section shall in any way limit the authorities of the
18 Administrator under section 1431 (42 U.S.C.
19 300i).”.

20 **SEC. 0 AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated to the Ad-
22 ministrator of the Environmental Protection Agency
23 \$100,000 for fiscal year 2006, to remain available until
24 expended, for a grant to the State of Alabama to assist



1 in the implementation of its regulatory program under sec-
2 tion 1425 of the Safe Drinking Water Act.

